

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

EJ FOOTWEAR, LLC, )  
Plaintiff, ) Case No. 3:05-0504  
v. ) Judge Trauger  
EXCELLUS HEALTH PLAN, INC. )  
d/b/a BLUECROSS BLUESHIELD OF )  
CENTRAL NEW YORK, )  
Defendant. )

## **ORDER**

For the reasons expressed in the accompanying Memorandum, the Motion for Summary Judgment filed by the plaintiff (Docket No. 21) is **GRANTED** in part and **DENIED** in part, and the Motion for Summary Judgment filed by the defendant (Docket No. 25), is **GRANTED** in part and **DENIED** in part. The plaintiff will be granted summary judgment on its breach of contract claim, and the court will grant the plaintiff's request for a declaratory judgment. The defendant will be granted summary judgment on all other claims. It is further **ORDERED** that this case is **REFERRED** to the magistrate judge for a computation of damages pursuant to the terms of the declaratory judgment rendered herein.

It is so ordered.

Enter this 8th day of August 2006.

  
ALETA A. TRAUGER  
United States District Judge